THE COURTS.

THE CORDES-DANN HOMICIDE.

Another Murder Trial—The Circumstances of the Case—Swearing In of a Jury—Ten Jurors Obtained.

HAVE WE ANY CITY ORDINANCES?

Action Against a City Railroad Company—How Legislation Is Blundered Over at Albany—The City Fathers in a Fog—An Important Question of Law.

BUSINESS IN THE OTHER COURTS.

The Criminal Term of the United States Circuit Court for March commenced yesterday before Judge Benedict. Nothing was done beyond calling the calendar and setting down days for trial. The Grand Jury will be sworn on Monday next. The Court adjourned till this morning.

Jonathan E. Brown, who is alleged to be under indictment at Bridgeport, Conn., for robbing the Post Office of that place of $2,000, and is charged with having run away, was brought before Commissioner Betts yesterday, and held for examination.

In the United States District Court yesterday eleven packages of whiskey, seized at 796 Washington street on the ground of having been illicitly distilled, were condemned by default, no claimant appearing for the property.

In the trial of Charles Cordes for the murder of John Dann but slow progress was made yesterday in the Court of Oyer and Terminer. Out of a panel of 100 only ten jurors were obtained. An extra panel was ordered for to-day, from which to make up the needed complement of jurymen.

An important question as to whether we have any city ordinances at present was raised in a suit tried yesterday before Judge Sedgwick, of the Superior Court. The Judge ruled that all city ordinances passed prior to the charter of 1870 were swept out of existence by that charter. A report of the case will be found elsewhere.

THE CORDES-DANN HOMICIDE.

Ten Jurors Only Obtained from a Panel of One Hundred—Another Panel Ordered for To-Day.

On the reconvening of the Court of Oyer and Terminer yesterday morning, Judge Brady on the bench, there was the usual large crowd in attendance. Charles Cordes, indicted for the murder of John Dann, was placed at the bar for trial. He is a young man of quite prepossessing appearance.

THE FACTS OF THE HOMICIDE.

The papers in the case show that on the 26th of last October Cordes was in the lager beer saloon of Antoine Miller, at No. 179 Duane street. There was quite a crowd in there at the time, and the conversation turned upon the Franco-Prussian war, and particularly as to the relative bravery of the Prussian and Bavarian soldiers. A man named Hank applied an approbrious epithet to Cordes and the two got into an altercation. John Dann, the uncle of Hank, interfered, and thereupon Cordes seized a bread knife and, bringing it down with great violence upon the raised arm of Dann, hit him on the wrist, nearly severing it in two. The injured man was taken to the hospital, and at the end of about two months died. Mr. William F. Howe, aided by Abe H. Hummell, appeared to defend Cordes, while for the prosecution there appeared Assistant District Attorneys Lyons and Russell.

GETTING A JURY.

It was supposed that there would be no difficulty in getting a jury, and especially as the case was one that never had excited any special degree of public interest. This proved to be a mistake. A panel of 100 jurors was exhausted and only ten found competent to serve. Examining them one by one, as they were called to the stand by the Clerk, was tedious enough, although Mr. Howe, who conducted the examination, managed occasionally to extort responses of diverting character.

"Mr. Bloomfield," Mr. Howe asked one of the rejected ones, "have you any conscientious scruples on bringing in a verdict of guilty when the penalty is death?"

"Quite the contrary," answered Mr. Bloomfield. "I should be rather inclined, in consequence of the alarming increase of murders, to mete out very strict justice to the prisoner."

"Could you," Mr. Howe asked another, who, of course, on account of the nature of his response, was rejected, "bring in a verdict strictly in accordance with the evidence?"

"I am afraid," answered the party interrogated, "that it would take strong evidence in these times to induce me to bring in a verdict of not guilty."

"I don't believe in insanity pleas," stated another.

And thus the excuses ran on, till, as stated above, the whole panel was exhausted. The following are the names of the ten:—Charles H. Culver, James I. Howard, John A. Janssen, William Eggert, Alexander J. Blades, Adolphus W. Magerhause, John W. Howard, Thomas Rule, William Cohen and John A. Smith. A further panel of seventy-five was ordered for this morning, when doubtless the remaining two jurors will be speedily obtained and the trial be entered upon at once.

HAVE WE ANY CITY ORDINANCES?

Important Point Raised in a Suit for Damages Against a City Railroad Company—Strange Oversight of Politicians at Albany and Worse Blundering of Our City Fathers.

In July, 1871, Robert A. Squires, a boy nine years old, was run over by one of the cars of the Belt Line Railroad at the corner of Lewis and Eighth streets and killed. His father, John A. Squires, brought a suit against the company for $5,000 damages, the extreme penalty allowed in such cases, for the killing of his son. The case has been on trial before Judge Sedgwick, holding Trial Term, Part 2, of the Superior Court. Everything started off very smoothly for the prosecution. The circumstances of the fatal casualty were recited by three witnesses with great minuteness of detail. Of course the material point was to prove negligence on the part of the railroad company. Several witnesses positively stated that the speed of the car in rounding the corner, where the accident occurred, was not slackened, but that the horses were kept at a round trot. But this was not enough for the prosecuting counsel. To clinch the matter there was offered as evidence an ordinance of 1866, prohibiting a rate of speed greater than a walk in going round street corners.

"I object to that ordinance being put in as evidence," interposed A. Oakey Hall, as counsel for the railroad company.

"On what ground?" asked the opposing counsel.

"On the plainly simple ground that it is not a city ordinance," answered the ex-Mayor, with that ready quickness so characteristic of him.

At the novelty of such a proposition the environment of counsel as well as the learned Judge on the bench gave a united look of astonishment. They were evidently curious to know what the ex-Mayor would prove; but as the result turned out he did prove it as plainly and clearly as was ever demonstrated a proposition in Euclid. He showed that there were no ordinances whatever now in existence, because the charter of 1870 had repealed expressly all prior charters without saving acts done under them and providing for ordinances under 1870. In his argument, utterly lacking in the ordinary clap-trap of technicalities, he could not resist the opportunity of giving a rap at hasty legislation in the one case and dilatory legislation in the other—hasty legislation at Albany in making such an egregious mistake and dilatory legislation in the Common Council in failing to readopt the ordinances thus legislated out of existence. Judge Sedgwick ruled with the ex-Mayor, and would not admit the ordinance as evidence.

The above, in a legal point of view, was the only really important question raised on the trial. The result of the trial was that usually following such cases—a verdict for the full amount claimed. Jurors are more open to sympathetic appeals than to any legal points, and particularly in weighing the loss of a human life against the plethoric exchequer of a railroad corporation. On the rendition of the verdict, however, motion was made to set it aside on the ground of excessive damages, and also a motion for stay on appeal. This motion will be argued this morning.

"The new charter," said a political gentleman present, "will provide for this extraordinary state of things developed in Mayor Hall's argument, and see to it that the old city ordinances are revived."

"It ought to," answered a lawyer, laconically.

"After all the tinkering legislation at Albany," remarked a third party, "it will not be surprising if one of these days we find we have no city laws at all."

BUSINESS IN THE OTHER COURTS.

UNITED STATES CIRCUIT COURT.

Opening of the March Criminal Term.

Yesterday the March Criminal Term of the United States Circuit Court was opened before Judge Benedict. The court room was crowded with lawyers and also with persons who had been summoned to be in attendance as jurors.

The swearing in of the Grand Jury was deferred until Monday next, as a sufficient number of jurors did not answer to their names. The Judge ordered an additional panel of twelve to be summoned.

On the motion of Mr. A. H. Purdy, United States Assistant District Attorney, Mr. Joseph P. Fay was admitted to practice in the Court.

Alfred A. Phillips pleaded not guilty to an indictment charging him with embezzling letters from the Post Office, and his trial was set down for the 24th inst.

John Moorehead and Peter Kehoe, indicted for counterfeiting the national currency, pleaded not guilty, as did also Charles Sinnert, who is indicted for dealing in counterfeit money.

Charles MacKay pleaded not guilty to an indictment charging him with sending an obscene circular through the mails. Mr. Spencer, counsel for defendant, claimed, as matter of law, that there was nothing obscene on the face of the circular, and that, therefore, the defendant was entitled to be discharged.

The Judge said he must rule against counsel upon such a motion.

The case of Benona Howard, who was indicted, about four years ago, for counterfeiting match stamps, was set down for the 19th instant. It looks like a big joke to see this case on the calendar, for the belief around the Court is that it will never be tried.

Willett Fergusson, indicted for embezzling letters from the Post Office, pleaded not guilty, and the case was set down for trial on the 17th instant.

The Wallkill National Bank Defalcation.

Ex-Senator William M. Graham, who has been indicted for embezzling a large amount of the funds of the Wallkill National Bank, of which he had been president, pleaded not guilty, and the trial of the case has been set down for the 31st inst.

Mr. Spencer, counsel for the accused, said bail had been fixed at $50,000. That amount was excessive, and Mr. Graham could not get it. He believed that half that amount would secure Mr. Graham's attendance.

Mr. Bliss, United States District Attorney, said that the charge against the prisoner was that he, as president of a bank, that the cashier, Horton, had absconded, and that between them they had embezzled $180,000. The capital stock of the bank was all gone, and how much of this Mr. Graham might have to put up as bail and then disappear of course it was impossible for him to say.

Mr. Spencer replied that the report of the government officer showed that the cashier had taken $167,000 from the bank and Mr. Graham only $15,000. He (Mr. Spencer) wanted to show that Mr. Graham had indemnified the bank by notes, &c. Mr. Graham was old and in broken down health, and he could not give the amount of bail demanded of him.

Finally, the District Attorney consented that the bail be reduced to $25,000.

A Government Official Charged with Receiving a Bribe—The Case of Charles Callender.

The case of Charles Callender was called. The defendant is charged with having, while acting in the capacity of a bank examiner, received a valuable consideration for the purpose of influencing his report in regard to the financial position of the Ocean National Bank of this city. It is alleged that the defendant, influenced by this valuable consideration, made a report maintaining the pecuniary stability of the bank, and that in a short time after the affairs of the bank were placed in the hands of a receiver.

Mr. William Fullerton and Mr. Joseph Bell appeared as counsel for the defendant. Mr. Bell moved that the case go over for the term on the ground of the absence of a material witness for the defence, Mr. D. Randolph Martin, who was at present in South America prosecuting a claim for $100,000 against a railroad company. Mr. Martin had been connected with the Ocean Bank and was conversant with all the details of the business. He had been a director of the bank.

Mr. Bliss, in reply to Mr. Bell, said it did not seem to him that Mr. Martin was any more cognizant of the affairs of the bank than any one of the other directors. The transaction occurred with the bank, and Mr. Martin was not the director solely or principally engaged.

Mr. Bell—The whole transaction was with Mr. Martin.

Mr. Fullerton—Mr. Martin was one of a committee of three that had charge of the management of the bank.

Mr. Bliss—We say that Callender gave the bank bonds for a large amount, and that those bonds were worth less. We say that was in the nature of a bribe, and after that Mr. Callender reported on the soundness of the bank, the affairs of which soon after went into the hands of a receiver.

Mr. Fullerton—We will show that Mr. Callender never borrowed a dollar from the bank. I have been in this case since the commencement of it, and we have always regarded Mr. Martin as an indispensable witness on the trial. Mr. Callender is ready to be tried whenever Mr. Martin returns.

In the course of some further conversation Mr. Bell said he believed Mr. Martin would be home in May.

It was arranged that the case be put down for the first day of the May term, a day to be then fixed for the trial.

The Case of Woodhull, Claflin and Blood.

The case of Woodhull, Claflin and Blood, who are indicted for sending obscene literature through the mails, was, upon the motion of Mr. Bliss, remitted to the United States District Court for trial.

A Batch of Nolle Prosequis Entered.

Mr. Bliss entered *nol. pros.* in about one hundred old cases against lottery dealers, persons for violating the election law, &c.

The Court adjourned until this morning.

SUPREME COURT—GENERAL TERM.

Admissions to the Bar.

Before Judges Ingraham and Davis.

The following young gentlemen having passed a satisfactory examination were yesterday admitted to the bar:—John Aitken, Jr., William Doll, Cherburne B. Eaton, A. Giheson and Washington Irving Jacques.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Fancher.

Wheeler vs. Mongra et al.—Motion denied.

Allen et al. vs. Scandanavian National Bank of Chicago.—Same.

McKim et al. vs. Same.—Same.

Isham et al. vs. Davison.—Motion for leave to reply granted on the payment of the costs of the circuit at which the trial was had and $10 costs of this motion.

By Judge Davis.

The People, &c., Ferguson vs. The Marine Court of the city of New York.—Motion granted.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Van Vorst.

Kobbe vs. Tutner et al.—Order granted.

McLean vs. Schaller.—Same.

Jones vs. Child.—Order of reference.

By Judge Freedman.

The People's Bank vs. Manhattan Glove Company.—Order denying motion with $10 costs to abide the event.

COURT OF COMMON PLEAS—SPECIAL TERM.

More of the McIntyre Divorce Suit.

Before Judge Robinson.

Argument was resumed in this Court yesterday upon the motion to confirm the referee's report in the McIntyre divorce suit, the full particulars of which have been published in the HERALD. It was charged by Mr. McIntyre's counsel that the whole difficulty was the result of the unwarrantable interference of the mother-in-law. He said that the latter wished her daughter to be furnished with diamonds, and because Mr. McIntyre would not do this that the daughter, pursuant to her advice, refused to sign mortgages and other papers necessary for raising money in his business. Counsel added that the matter of the diamonds he thought perfectly ridiculous under the circumstances, Mr. McIntyre being a butcher and she the daughter of a cellar digger. After hearing the argument the Judge took the papers, reserving his decision.

COURT OF COMMON PLEAS—PART I.

The Burglary on the Ocean National Bank.

Before Judge Larremore.

The suit for the recovery of bonds to the amount of $50,000 brought by the First National Bank of Lyons, N. Y., against the Ocean National Bank, of this city, which bonds were part proceeds of a burglary committed on the latter bank, was commenced again yesterday in this Court. It will be remembered that during the February term the trial was begun before Judge J. F. Daly, but was not concluded, owing to the illness of Mr. Bangs, counsel for the defendants. The case is likely to last for ten or twelve days, and the testimony, of course, will be only a repetition of that produced at the former trial, and which has already been published in the HERALD.

MARINE COURT—PART 2.

The Law of Partnership—Its Responsibilities.

Before Judge Curtis.

Michael Weyand vs. B. B. Bradley.—This action was brought by the plaintiff to recover damages against the defendant, one of a firm indebted to the plaintiff, who, it is alleged, induced the plaintiff to release his partner from legal responsibility by representing that he would assume the then existing obligation, and that he was the owner of certain property valued at $10,000, the partner of the defendant being at the time solvent, the defendant himself being irresponsible. It was alleged on the part of plaintiff that the representations of defendant were false and untrue, that he was not the owner of any real estate, and that the representations were made for the purpose of inducing plaintiff to release the partner from the legal liability which he had assumed. After the evidence was in the defendant's counsel moved to nonsuit, which motion was granted.

Judge Curtis, in declaring his opinion, said:—

In the first place it appears by the record that this is an action in which an order of arrest was granted and the person held to bail. It is well understood that any judgment against this defendant will run against his body. Consequently, it possible, more care and attention should be given to an offence of this kind than to the ordinary civil action, where there is no such personal result. The plaintiff claims that the defendant made certain fraudulent declarations and statements, by means of which the plaintiff released from legal responsibility the prior copartner of the defendant, Bradley. It is claimed on the part of the plaintiff that those representations were false. Of course the burden of proof is on the plaintiff to show that. These representations were false and fraudulent. The question then arises, is there any positive proof that these statements and representations were false and fraudulent? There may exist a suspicion that they were false. There may be the moral conviction, perhaps, that they were not true, but is there any evidence of a legal character, such as would warrant a Court and jury in sending this man to the custody of the law, because, as I said before, a judgment in this case would run as against his body? I cannot see where there is any such evidence. The only evidence in that regard is the testimony of Mr. Shaw, and that is entirely of a negative character. He swears that he made a search in the Register's office, and he did not find a deed or conveyance in which this man Bradley was grantee. He said something about an agreement, which, of course, was excluded. Now, there is the evidence of Kenyon, and that would seem to show that it was in contemplation of the defendant to purchase some real estate, on or about this very time, because in a conversation which took place between Bradley and Kenyon he made some mention about an intended purchase and some allusion to a sum of money. So far as that is concerned it is in favor of the defendant. It is not necessary to inquire was the second transaction the result of a new inducement operating upon the mind of the plaintiff, or a continuance of the original alleged fraud. The complaint must be dismissed for want of proof.

COURT OF GENERAL SESSIONS.

Larcenies from Express Wagons—The Thieves Sent to the State Prison.

Before Judge Sutherland.

Assistant District Attorney Rollins prosecuted in this Court yesterday.

Joseph S. Gwyre, alias Joseph S. Sandford, pleaded guilty to an indictment charging him with stealing on the 21st of December a package of cigars valued at $53 from an express wagon, the property of William W. Kerr.

George Ryan, who, on the 13th of February, stole a bale of tobacco worth $114, the property of Nathaniel Rose, from an express wagon at Peck slip, pleaded guilty to grand larceny. Gwyre and Ryan were each sent to the State Prison for three years.

Burglary.

A plea of an attempt at burglary in the third degree was taken from John Colbert, who on the 27th of February burglariously entered the tailor's shop of John Bellentoni and stole $219 worth of clothing. He was sent to the State Prison for two years and six months.

A Stabbing Affray in a Tenement House.

John Scott was tried and convicted of an assault with intent to do bodily harm to Hugh Corey. The evidence showed that the parties lived at a tenement house in East Eleventh street, and on the 17th of February they and some of their acquaintances fought like Kilkenny cats. After the fight was over Scott stabbed Corey in the breast and side with a small knife. Judge Sutherland took the mitigating circumstances into account and sent Scott to the State Prison for two years.

Larceny.

Thomas Reilly, who on the 22d of February stole a fur collar and a pair of pantaloons, valued at $31, the property of Thomas C. Campbell, pleaded guilty to petty larceny. He was sent to the Penitentiary for six months.

Embezzlement.

John H. Hill, indicted for embezzling $30 from his employer, Edward F. Christiansson, 39 Vesey street, on the 13th of February, pleaded guilty to petty larceny. After hearing Colonel Spencer's statement of the case, and being satisfied that the accused was the victim of circumstances which showed that he had no felonious intent, the Judge fined Hill $10, which his counsel promptly paid.

Two Youthful Highwaymen.

A youth named William Hanlon, who was jointly indicted with James Ritchie for robbery, pleaded guilty to petty larceny from the person. While John Drummond was passing through Thirty-first street, about eight o'clock on the evening of the 28th of December, Hanlon took him by the throat and Ritchie stole a silver watch from him worth $5.

Mr. Allen accepted the minor plea, in order that the Judge might have discretion to impose a lesser penalty than five years, should Hanlon's employer, who was absent, give him a good character. Sentence will be passed on Friday.

Ritchie pleaded guilty a few days since and was sent to the State Prison for five years.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CIRCUIT—TRIAL TERM—Part 1—Held by Judge Barrett.—Nos. 483, 993, 957, 1821, 305, 775½, 913½, 941, 1395, 1011½, 1965, 2333, 51½, 395, 743, 767, 781, 909, 1049, 1065. Part 2—Held by Judge Van Brunt.—Case on.

SUPREME COURT—GENERAL TERM—Held by Judges Ingraham and Davis.—Nos. 82, 83, 88, 136, 137, 171, 175, 179, 182, 183, 185, 188, 189, 190, 133, 150, 152, 154, 155, 165, 175, 178, 192, 193.

SUPREME COURT—SPECIAL TERM—Held by Judge Mullin.—Law and fact—Nos. 148, 167, 178, 179, 180, 188, 69, 93, 102, 195, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211.

SUPREME COURT—CHAMBERS—Held by Judge Fancher.—Nos. 72, 75, 76, 87, 88, 89, 90, 114, 128, 198, 217, 220, 244, 247, 248.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Judge Barbour.—Nos. 2025, 1921, 257, 1799, 751, 2031, 479, 1953, 815, 1945, 1955, 1937, 1231, 2411, 1435. Part 2—Held by Judge Sedgwick.—Nos. 240, 1612, 1606, 1416, 1288, 822, 1540, 726, 1140, 314, 390, 1692, 2478, 2026, 1298.

COURT OF COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge Larremore.—Case on.

MARINE COURT—TRIAL TERM—Part 1—Held by Judge Gross.—Nos. 1520, 1516, 1550, 1554, 1466, 826, 1564½, 1572, 1366, 1458, 1620, 1624, 1628, 1630, 1632. Part 2—Held by Judge Curtis.—Nos. 1458, 1575, 1465, 1611, 1125, 1939, 1539, 1563, 1587, 1527, 1565, 1581, 687, 1491, 1129, 1125. Part 3—Held by Judge Howland.—No. 1678.

BROOKLYN COURTS.

SUPREME COURT—SPECIAL TERM.

Comptroller vs. Collector—Tax Money Deposits.

Before Judge Pratt.

The dispute between Comptroller Schroeder and Tax Collector Burroughs has finally got into the Courts. The Comptroller claims that Mr. Burroughs should deposit the moneys received by him for taxes and assessments in the city treasury the same day they are received, which the latter says it is impossible for him to do. Yesterday morning Corporation Counsel DeWitt, on behalf of Mr. Schroeder, applied to Judge Pratt for an order requiring the Collector to show cause why a mandamus should not issue compelling him to make such deposit. Judge Pratt granted the order and made it returnable on Saturday next, when the matter will be argued and the question settled.

COURT OF SESSIONS.

Charge of Homicide—Acquittal of the Accused.

Before Judge Moore and Associates.

A young man named Michael Stapleton, employed as a driver of Dodd's Express Company, was placed on trial yesterday on a charge of manslaughter in the fourth degree, in having caused the death of a boy named Daniel Desmond. It seems that on Fourth of July last young Desmond and some other boys had been carousing about the corners of Smith and State streets and Smith and Atlantic streets (which, by the way, is one of the hardest neighborhoods in the city), and in the evening came upon two men who were standing in State street, near Boerum. Some words passed between the parties, and one of the strangers struck Desmond a blow with his fist, felling him to the pavement. The boy was carried home, and died the next day. Stapleton was subsequently arrested on the charge of having struck the blow. The evidence on the trial connecting the prisoner with the assault was that of John Murphy, a companion of the deceased, who swore that he saw Stapleton strike Desmond. On the cross-examination, however, it appeared that Murphy had sworn before the Coroner that one Michael Smith was the assailant. Murphy also confessed that he had been arrested ten times and had been in the Penitentiary. He is only about fifteen years of age.

Stapleton emphatically denied having struck the boy, and swore that he knew nothing whatever of the affair, not having seen any of the boys on the night in question. A large number of witnesses gave him a good character, and the jury promptly rendered a verdict of not guilty. The prisoner was thereupon discharged.

SURROGATE'S COURT.

A Husband Contesting His Wife's Will.

Before Surrogate Veeder.

Thomas Noble, who is contesting the will of his wife, Sophia K., yesterday filed his objections to the admission of the will to probate. Mrs. Noble bequeathed her property, which is valued at some three thousand five hundred dollars only, to several suburban churches. Application was recently made to have the will admitted to probate, and the husband then signified his intention to contest. He alleges that the testator was of unsound mind at the time she made the will and had been for a long time previous thereto—in other words, that she was suffering from delirium tremens, and, therefore, incapable of executing such an instrument.

COURT OF APPEALS CALENDAR.

ALBANY, March 12, 1873.

The following is the calendar of the Commissioners of Appeals for March 13:—Nos. 37, 32, 76, 29, 31, 79, 80, 83, 84, 85, 86, 88, 89, 90.

Adjourned until ten A. M. to-morrow.

ERIE AND ITS ENEMIES.

Interview with Mr. Barlow—The Question of the Retirement of Certain Directors Looming Up Ominously—Will They Sell Out the New Dynasty as They Did the Old?—The Proposed Reorganization of the Boston, Hartford and Erie Road.

A good deal of excitement is just now becoming manifest regarding the affairs of Erie, and new sensations are looked for in this institution, which has hitherto been so prolific of them. The last one, foreshadowed by persons who appear now to have been far too ardent in their belief of vague rumors, is that which was circulated on Monday to the effect that several resignations were to take place in the Board of Directors at the meeting on Tuesday. The retiring members are said to be those who were connected with the former and defunct administration of Gould, who, in the throes of repentance, had been taken into the arms of the new, on promises of reformation and faithful service. These gentlemen were Otis, Hilton and White. The public were disappointed, however, in the fact that their resignations were not made as report presaged, and the professed confidence of the other directors in their integrity and utility was loudly reasserted. The appointment of the special investigating committee at Albany to examine the charges of illegal use of moneys made against the Board of Directors has, however, added to the interest now felt in the matter, and there are earnest intrigues on foot whose object is the solving of the mystery which surrounds the recent revolution in the gigantic railway corporation. It hence becomes probable that the question of the retirement of certain officers of the company who were identified at one time with the old dynasty is really at this time mooted, and may in the near future be strongly pressed to an issue. In an interview had with him yesterday by a HERALD reporter, Mr. S. L. M. Barlow expressed sentiments of this character, although in a mild and cautious tone. He said that the chief cause of the beginning of this new movement of "reform" was a lack of confidence among the stockholders of the company in the stability of Messrs. Hilton, White and Otis' devotion to its interests; that it had been often remarked that they had sold out one party when misfortune overshadowed it, and might sell out another. In this there was a good deal of sound logic, and Mr. Barlow was not prepared to say that the subject was yet altogether dropped, and the tone of his further remarks indicated a belief to the contrary.

In regard to the latest action of the Assembly, he said that, as he had often stated before, he and the other directors were ready at any time to submit the books of the concern to the inspection of all the investigating committees it might please the representatives of the people to send to them. There was nothing in their late transaction that they wished to conceal.

Regarding the resignation of Vice President Devin, it would not, he said, take effect until about the middle of April, and there was no decision yet made as to the name of the person who should be his successor. They wished to have some one in the place who was a thorough and enterprising railroad man, and whose education and abilities would fit him for the performance of the onerous duties which would fall upon him in advancing the interests of the corporation.

The argument relative to the foreclosure of the Boston, Hartford and Erie Railroad under the Berdell mortgage was proceeding yesterday in Boston, Lane representing the Boston and Erie road and McFarland the Erie. Mr. Barlow stated that a number of stockholders, representing over eight millions of dollars in bonds, had consulted with him in reference to a reorganization, and had requested him to prepare a plan for the accomplishing of that end; that he had not done so yet, and could not until matters were in a different shape and certain conditions were fulfilled.

A DANGEROUS PROPOSITION.

Extraordinary Powers to a Transit Company.

TO THE EDITOR OF THE HERALD:—

In one of the most spirited opinions ever delivered in this State, in a case which involved the question of "eminent domain," it was stated by the presiding Judge that it would be highly disrespectful to suppose that the Legislature ever intended to take away the land of one man and bestow it upon another; but it is worth while to consider whether we have not very nearly reached this insecure position. A bill has passed the Senate of this State and now remains in the House of Assembly authorizing the Beach Pneumatic Transit Company to take by assessment the land of any person in any part of the city for the purposes of the company, and as this corporation is now owned by only a single family and the proceedings to acquire land in that manner are notoriously of a one-sided character, the passage of such an act through the Senate is just cause of serious alarm. If bestowed on the other street companies, with their more than fifty miles of street railway, no man's property will be safe. If the act in question pass the Assembly it will be deemed a precedent for the street railroad companies, who will not be slow to invoke the application of it to them, and, under pretence that an assessment would be called for, a power over the disposal of property would be obtained of a momentous and dangerous character. That there may be no doubt of the extent of the act we submit a part of section 4, which provides that

> The said corporation shall have the right and is hereby authorized to acquire the title to and hold such real estate or interest therein as may be necessary to enable it to construct, operate and maintain said tubes and railways as herein provided, and to construct and maintain the proper platforms, stations and buildings of said corporation at such points along the route of said tubes as may be convenient and suitable for the ingress and egress of passengers and for the receipt and discharge of freight and packages, and necessary for the successful operation of said tubes and railway, and for the proper connections between said tubes and railway platforms, stations and buildings; and in case the said corporation is unable to agree with the owner or owners of such real estate or interest for the purchase and use thereof, the said corporation may acquire title to the same in the manner provided in the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first and twenty-sixth sections of an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," &c.

This extraordinary power is made to extend not only to the route defined in the act—from the Battery under Broadway to Madison square, thence under Broadway to Central Park, with a branch from Madison square under Madison avenue to Harlem River, and with power to make connection with the Harlem and connecting roads at or above Forty-second street, and with the Hudson River road at any point north of Fifty-ninth street—but its limits over the city and over Brooklyn may be said to be practically undefined. The Tube Company was originally empowered to lay one or more tubes of fifty-four inches in diameter under and through all the streets, avenues, squares and public places of New York and Brooklyn, and under the North and East Rivers; and this right is substantially continued. It will be seen from a careful reading of the section quoted that the right to take land along the tubes alone is conferred as well as along the "tubes and railway."

The power to take land from private individuals was originally one that might be exercised only by the public and for public use; but when the great lines of railway came to be constructed it was held that they took it for the public, and it would seem that this applies as well to land for depots as for land required for tracks; but the power to take for depots has been seldom exercised, as the companies understood that if it were acted upon capriciously or generally great indignation would result. During the last few years the power has been extended to some of the new defunct lines established for rapid transit; but the character of the Legislatures which granted this unusual power is too well known to be regarded as a respectable precedent. The attempt to have it extended to the ordinary street railways wants only the precedent now sought to be established in order to secure the privilege for them throughout all the cities of the State.

The right to take land for depots in cities ought under no circumstances to be granted, and especially not to a corporation like the Tube tunnel, which has been in existence for years without complying with a single provision of the act of incorporation and without any one knowing the parties upon whom the succession has fallen. It is understood that most of the original stockholders have long ago abandoned the company as being founded in mistake; but yet it is to such an incorporation that this enormous power over the property of every individual in the city and in Brooklyn is about to be conferred—a power which can be used as a menace to induce owners to part from their premises at a sacrifice under the pretence that if they neglect to do so the machinery of assessment will be set in motion to obtain it at the price which the company shall offer.

If the Legislature pass this bill the body will be regarded as on a perfect footing with those which have recently preceded it, and which stand condemned for the grossest corruption. WATCHER.

THE FOSTER CASE.

A Card from the Widow of the Murdered Man.

PROVIDENCE, R. I., March 12, 1873.

Will you allow me to correct the statement in yesterday's HERALD that I had received money for writing a letter to the Governor of New York asking the commutation of William Foster's sentence? The statement is wholly false. I have never received money, nor have I been offered a bribe in any form. The letter was my own, and expressed my honest feelings. ELLEN L. PUTNAM.

Mr. John Foster Denies Paying Money to Mrs. Putnam.

TO THE EDITOR OF THE HERALD:—

Being absent from the city and only returning home late on Tuesday night, I first saw the report in the HERALD of that day that money had been paid to Mrs. Putnam for her letter to the Governor on behalf of my son, William Foster. Allow me to state that the story is entirely without foundation in every particular. I am not personally acquainted with Mrs. Putnam—in fact, I do not know that I ever saw her; but I assert most confidently that I have not and that, to my knowledge, none of my friends have ever offered or paid her any sum whatever for her kind intercession on my son's behalf. I can only attribute her letter to the kindness of her heart. I am, very respectfully,

JOHN FOSTER, 218 East Eighteenth street.

NEW YORK, March 12, 1873.

WHAT MRS. DUVAL SAYS.

She Tells of Bribes and Threats by Foster's Friends—Some Interesting Revelations.

[From the Star of yesterday.]

In the vestibule of an elegant mansion in East Twentieth street the writer this morning met Miss Jennie Duval, the young lady in the defence of whom Avery D. Putnam was killed by William Foster two years ago.

"Mamma is very sick," she said. "Perhaps I will do as well."

"I wished to know if any persons have asked your mother to sign the petition for commuting the sentence of William Foster?"

"I will speak to mamma," and, having ushered her visitor into the parlor, she whisked away.

Presently a pleasant-faced man entered the room and said:—

"Mrs. Duval will be down as soon as she can dress. Can I do anything for you?"

In answer to an inquiry he said:—

"Before I came to this country I studied law for seven years in France. In that country they are very severe on criminals, and, of course, I look on this case of Foster through the eyes of my countrymen. I think if Governor Dix knew the circumstances as I and my family know them he would not hesitate a moment as to his duty. Since Foster's conviction his friends have done all in their power to injure us. There has been a detective watching the family for the last eighteen months, trying to find something against us. We have given

NO RECEPTIONS SINCE MR. PUTNAM'S DEATH,

and our visitors have been only intimate friends. They have failed to intimidate us, and I believe they have sounded Mrs. Duval on the subject of money. Here she is. She can tell you about it better than I."

Mrs. Duval described in feeling language the scene of the assault on Mr. Putnam. She said:—

"I have not known a well day since that awful night. That horrible picture is ever before me. The surgeons may say what they please, but Mr. Putnam was as much a dead man at half-past nine that night as he was the next day. 'Saint Foster'—I call him 'Saint,' now that so many men have testified to his religious sentiments—struck him twice—not once, as his friends assert—with a 'wire' large enough to kill any man."

Here the lady's eyes filled with tears.

"Has any one approached you on the subject of commuting Foster's sentence, Mrs. Duval?"

"Indirectly they have, on three occasions. About eighteen months ago a man called here to talk with me about Foster. He said to me, 'You are not desirous to see Mr. Foster hanged, are you?' I told him my desire was to see justice done. I thought if there was any punishment worse than hanging it should be meted out to him. He then said to me, 'It would be for your advantage to have him saved!' I rose and closed the interview at once. I told the man that the advantage of society demanded that

FOSTER SHOULD BE PUT OUT OF THE WAY.

I was a poor woman, but I could neither be intimidated nor bought over to perpetrate an outrage on justice. He went away. Some time after that I met this man again. It was just at the time when Mrs. Putnam had recovered damages from the railroad company. He said again, 'It will be for your advantage to have this man saved from hanging. There is a great deal of money in it, as you can see.' I repeated to him my former words, and have never seen him since. I think it was the same man who is now accused of bribing Mrs. Putnam. Last week another attempt to sound my feelings on the subject was made. A lady called on me and began talking about Saint Foster. At last she said, 'You are not willing to see him hanged, are you? It is in your power to save this man's life.' I told her Mr. Putnam's life had been sacrificed in the cause of society; I considered both him and myself as martyrs to that cause. If society was now willing to sacrifice both him and me by allowing the murderer to escape I would have no hand in it. She then said:—'But, supposing there was money for you in this thing; or, putting it in another form, supposing this man is hanged; he has friends large in political and money influence. The wellbeing of yourself and your daughters might be endangered for the next twenty years. You do not know the power of his friends as I do.'

YOUR VERY LIFE MAY BE IN DANGER.

I started from my seat and faced her. My indignation was thoroughly aroused now. I said:—'Madame, it is no new thing for me to have my life threatened. I heard one of Foster's counsel say during the first trial that the main thing they wanted was to get rid of the principal witness. I was then very sick, and they postponed and postponed, hoping that I would die. I am living yet to remain true to the best friend myself and my husband ever had. She left me then, and I have not been approached on the subject yet."

"Mrs. Duval, did your impressions of Foster on that night lead you to believe that he was an exemplary Sabbath school pupil?"

"They led me to believe the truth—that

HE WAS A DRUNKEN LOAFER,'

His face was bleared with the habitual use of rum. I am surprised that Dr. Tyng should say that he was a scholar of his. He may have been a scholar in the church over which Dr. Tyng now presides. I was a member of his church—the Epiphany, in Philadelphia—and the Doctor came to New York at the same time, I was about to say in the same car, that I did. That was thirteen years ago. Foster is now about thirty-six years old. He was a pretty large Sunday school scholar if he studied under Dr. Tyng."

When the conversation ended Mrs. Duval sent for her two daughters, Jennie and Annie, and introduced them.

"This," she said, pointing to Jennie, "is the little girl, a mere child then, as you can see, whom that ruffian insulted; and this," introducing Annie, "is the young lady whom we were going to accompany home from church. I am afraid Foster's sentence will be commuted. If it is Governor Dix will have betrayed the trust reposed in him by the people whose interests he has sworn to protect."

ADDITIONAL EXPRESSIONS OF POPULAR OPINION.

The fact that the public mind is greatly excited in relation to the case of Foster, and also the cases of the other murderers now confined in the Tombs, may be judged from the communications given below and those previously published in the HERALD, and which form but a very small percentage of the communications received on the subject.

"Start the Ball Rolling."

TO THE EDITOR OF THE HERALD:—

I thank you on behalf of a large law-loving community for your stand of right and justice in the Foster affair, and I would ask a small space in your valuable sheet to give my peculiar views. In the first place, I would suggest that in every murder trial there be sworn two separate sets of jurors to hear the testimony, and at the close of the trial let one jury go out and try to come to a verdict; if they cannot agree, then let jury No. 2 go out and try. One would in most all probability agree, and a great amount of valuable time be saved. In the second place, I would respectfully move that, if the Governor pardons Foster, instead of going through all the costly trials and then having the Executive set the verdict aside, the case be at once brought before that tribunal for decision, and let him pass judgment, whether it be hanging or imprisonment for one or two months or more. And lastly, is there not one poor devil in the Tombs awaiting trial that has neither a great amount of money and religious friends—that can be hanged to start the ball a rolling, as I see no chance of there being anybody hung at present, that is, that has been tried? And now, Mr. Phelps, try some poor devil for murder, and get one hanged at last.

A CONSTANT READER.

Sudden and Inevitable Death the Only Efficient Check for Murder.

TO THE EDITOR OF THE HERALD:—

Certain fine-haired philanthropists are free with the charge of bloodthirstiness against all who believe the only antidote for murder is swift and certain hanging, and inferentially claim to be the sole repositories of mercy and humanity. Of course these sentimentalists cannot be expected to see how and why their wicked weakness may be the direst cruelty any more than a weak and indulgent parent can see or foresee the sad results of lax family government. But for the multitude who join the HERALD in demanding the prompt execution of assassins I claim a more comprehensive humanity—a truer and more discriminate mercy than is known to these nursers of crime. This is the mercy which would guard with anxious solicitude every law-abiding member of the Commonwealth from bullet and blade, from poison and bludgeon. This is the mercy of prevention, which, fully sustained, would make executions few, avert untold suffering and practically end the reign of murder. The apologists of murder must surely admit the necessity of some checks and penalties on evil doers, and, if not perversely blind, must also see that the logical effect of their sickly bosh and indiscriminate sympathy is a direct premium on murder. The most stultiloquent of these can hardly believe their fine-haired theories of mercy can possibly lessen crime or that aught less than the terror of sudden and inevitable death can check the murderously inclined. I appeal for mercy to those who have never steeped their hands in human blood; mercy to those who are yet to be immolated by the wild beasts of society.

M. P'A.

Let Justice Be Done Though the Heavens Should Fall.

NEW YORK, March 10, 1873.

TO THE EDITOR OF THE HERALD:—

The stand taken by your paper in regard to the murderers now in the Tombs deserve credit from the law-abiding citizens of New York. The appeal to the Governor was made upon the ground that Foster did not expect to kill Putnam. He made the remark that he would "fix him," and he did fix him. We must believe the man himself. If I should be on a city car and should be insulted, and being a large, powerful man and my opponent a small one—as in the instance of Foster and Putnam—if I only wanted to chastise him I would hit him with my fist; if I did not care whether I killed him or not I would take some iron instrument—as did Foster—and let the victim take the risk of its killing him. This kind of thing will not do in a city like ours. I agree with the HERALD that this murdering business must be stopped, and without hanging it cannot. Twelve men sitting throughout the trial and pronouncing a man guilty of murder, after hearing all the evidence, I would not have their verdict set aside by one man, although he is the Governor of New York. Take the case of Jack Reynolds. I don't think he intended to take life any more than Foster. Let the public know it is dangerous to try to come near killing a man and not intend it. Foster had intelligence and education—Jack Reynolds had neither, and I don't think when he was hung he knew what was being done with him; if he did he certainly did not look so, for I saw him when the cap was drawn over his face. He then wore a smile on his face. He had no money, friends or ministers to write for him, so he had to swing. Let justice be no respecter of persons. Rich or poor, if they deserve hanging, let them hang.

J. B. K.

Letter from a "Grateful Heart."

TO THE EDITOR OF THE HERALD:—

There are many grateful hearts in our neighborhood and many jubilant voices tuned to praises of the HERALD for its manly, noble course in the Foster case. We were fast giving up all hope of justice; the criminal's friends only were active, when your paper came out so firmly on the side of truth and the law. Our thanks are also due to Mr. Walter Bartlett, the intelligent juror, who made a strong point in his able letter in last week's HERALD, saying Foster was not too drunk to remember where the car hook belonged, and ran after the car and threw the bloody instrument on the platform after his murderous work was completed. I am glad to see there are able men espousing the cause of right and justice in opposition to the namby-pamby beings who are willing to let such roughs as Foster loose upon the community to murder some other unoffending citizen. I know Governor Dix will see the laws are executed in spite of Dr. Tyng's erroneous statements and the influence of the Episcopal Church.

E. B.

Death Would Be More Merciful Than Decay.

NEW YORK, March 11, 1873.

TO THE EDITOR OF THE HERALD:—

It is time that the voices of the HERALD and the masses were heard, that men may know and fear the law and it be no more dishonored. Born of mature deliberation and educated by the experience of ages, our law speaks the resolute will of a thoughtful and humane people; it is God in humanity asserting its right to rule all baser elements. Be the people stanch and true to their wisdom; the oracle speaks but to be obeyed. New York just now affords the pitiable spectacle of men rushing hither and thither like hungry chickens, guided by an impulse as devoid of judgment and true kindness to their fellows. The men who call to-day for justice and obedience to a law which their own and the judgment of the past have proved necessary for the well-being of the community, have as much pity for the poor wretch who lies under condemnation as those who seek to break the law in his behalf, more than those who use "unholy means." The difference is, their judgment, made of sterner stuff, melts not upon such altars, but rather gleams with indignation that the lives of men known and respected should be at the mercy of ruffians who know no mercy and can plead naught but their own vile habits to excuse their deeds of murder. I am inclined to think that death would be more merciful for Foster than the years of unexpected misery, of hope deferred through which his "aids" are dragging him.

What value is there in a plea for mercy on the ground that Putnam neglected his wife? What wonder if it were so with him and is so now with others when the spirit of some women leads them to reap a harvest from a husband's blood or write the atrocious nonsense of a "Neglected Wife?"

IOTA.

Call for a Petition Against Executive Clemency.

MARCH 11, 1873.

TO THE EDITOR OF THE HERALD:—

One million of people, I doubt not, have rejoiced at the noble stand the HERALD has taken in behalf of justice in New York city. If Foster receives a commutation of sentence it will make every honest American citizen blush with shame at the laws of his country. New York will be a city of murders, armed men will walk the streets, assassins will direct their blows with impunity, and, in fact, "hanging will be played out" while money can influence the ever powerful New York dailies. It is an excellent call from the people that the HERALD start a petition to the Governor praying him not to interfere with the decision of the Courts, and such a petition will receive 10,000 signatures in one day. Do you doubt it? Please try and see for yourself.

S. H. B.

Mercy for Governor Dix—How He Will Consider Foster's Case.

TO THE EDITOR OF THE HERALD:—

But few of the writers of the letters in behalf of Foster seem to understand the duty of the Governor in the matter. That he understands it his letter to the Sheriff in the Gaffney case fully establishes. Let us answer the following questions, and then we will be brought face to face with the considerations which will rule his executive action:—Has Foster been tried for murder in the first degree? Yes. Convicted? Yes; with a recommendation to mercy. Did he appeal from the judgment to the General Term of the Supreme Court? Yes. Was the judgment confirmed? Yes. Did he appeal to the Court of Appeals from this confirmation? Yes. Did the Court of Appeals confirm the findings of the General Term? Yes.

This is the entire case, and the only consideration for the Governor is the recommendation to mercy. In considering this "recommendation" he will not retry the case, for he expressly declares he will not do so in the Gaffney letter. Then how will he consider the case? He will be guided by policy. He will ask himself, "Will the State be benefited by saving this prisoner's life? Will the well-being of society be promoted by the commutation of his sentence? If I interpose my power to protect him from the execution of the sentence, so deliberately imposed on him, will my doing so serve to carry out the intention of the statute under which he was convicted?" In his deliberations he will remember that "the sentence imposed by a criminal statute is to deter others from a like offence." "Criminal laws are necessarily general, in order that the highest good may be secured to the many."

It is wrong, it is cruel, to address tearful appeals, unfounded in reason, to the Governor. They cannot come to good, but break his heart; for he must hold his peace. Who doubts, if tears could save this man's life, that General Dix would be the first to shed them? or if a vicarious sacrifice of a limb would suffice, who doubts that General Dix would be the first to offer his right hand? The General has sons of his own and understands a parent's love, and if a thousand Niobes should deluge the Capitol with their tears and each tear were an appeal for mercy they could not be half so effectual as the prompting of his own heart. Let us have mercy, therefore, on him to whom we appeal for mercy.

S. H. T.

NEW YORK, March 11, 1873.

A Correction.

NEW YORK, March 11, 1873.

TO THE EDITOR OF THE HERALD:—

I notice in your issue of to-day my name used as a signer of a "Foster petition." Please say for me in your next issue that I never signed or even saw the said petition. Whoever forged my name to it deserves the same treatment that the petitioners would give to Foster.

B. F. TUTHILL, 191 Duane street.